

§ 33B-2. Custodial trust; general.

(a) A person may create a custodial trust of property by a written transfer of the property to a trust company or an adult other than the transferor executed in any lawful manner, naming as beneficiary an individual, who may be the transferor, in which the transferee is designated, in substance, as custodial trustee under the North Carolina Uniform Custodial Trust Act. A transfer is executed in a lawful manner if the formalities, if any, of the transfer of the particular property necessary under general principles of law are satisfied.

(b) An adult may create a custodial trust of property by a written declaration which names as beneficiary an individual other than the declarant. The declaration shall be evidenced by registration of the property or by other instrument of declaration executed in any lawful manner, describing the property and designating the declarant, in substance, as custodial trustee under the North Carolina Uniform Custodial Trust Act. A registration or other declaration of trust for the sole benefit of the declarant is not a custodial trust under this act. A registration or declaration is executed in a lawful manner if the formalities, if any, of the transfer of the beneficial interest in the particular property under general principles of law are satisfied.

(c) Title to custodial trust property is in the custodial trustee, and the beneficial interest is in the beneficiary.

(d) Except as provided in subsection (e) of this section, a transferor may not terminate a custodial trust.

(e) The beneficiary, if not incapacitated, or the guardian of the estate of an incapacitated beneficiary, may terminate a custodial trust by delivering to the custodial trustee a writing signed by the beneficiary or guardian of the estate declaring the termination. If not previously terminated, the custodial trust terminates on the death of the beneficiary.

(f) Any person may augment existing custodial trust property by the addition of other property pursuant to a written instrument satisfying the requirements of subsections (a) or (b) of this section.

(g) The transferor may designate, or authorize the designation of, a successor custodial trustee in the trust instrument.

(h) This act does not displace or restrict other means of creating trusts. A trust, the terms of which do not conform to this act, may be enforceable according to its terms under the law. (1995, c. 486, s. 1.)